

REMARKS

Favorable reconsideration of this application, in light of the preceding amendments and following remarks, is respectfully requested.

Claims 1-9 and 12-13 are pending in this application. Claim 5 is amended and claims 10-11 and 14-15 have been cancelled. Claim 1 is the sole independent claim.

Applicants note with appreciation the Examiner's acknowledgement that certified copies of all priority documents have been received by the U.S.P.T.O. Action, summary at 12.

Applicants also respectfully note that the present action does not indicate that the drawings have been accepted by the Examiner. Applicants respectfully request that the Examiner's next communication include an indication as to the acceptability of the filed drawings or as to any perceived deficiencies so that the Applicants may have a full and fair opportunity to submit appropriate amendments and/or corrections to the drawings.

Claim Objections

Claims 3-7, 10-11 and 14-15 are objected to because of the following informalities: It appears that claim 10 is a duplicate of claim 3. Claim 11 appears to be a duplicate of claim 4, claim 14 appears to be a duplicate of claim 5 and claim 15 appears to be a duplicate of claim 7.

Claims 10-11 and 14-15 have been cancelled. Therefore, Applicants respectfully request that the objections to claims 3-7, 10-11 and 14-15 be withdrawn.

Rejections under 35 U.S.C. § 112

Claims 5 and 14 stand rejected under 35 U.S.C. § 112, first paragraph, as being failing to comply with the written description requirement. Applicants respectfully traverse this rejection for the reasons detailed below.

Claim 14 has been cancelled, and claim 5 has been amended to overcome the § 112 rejection. The Applicants, therefore, respectfully request that the rejection to Claims 5 and 14 under 35 U.S.C. § 112, first paragraph, be withdrawn.

Double Patenting

Claims 1-15 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-11 and 13-19 of copending Application No. 10/523,929.

Claims 10-11 and 14-15 have been cancelled, and therefore, the double patenting rejection of these claims is now moot. Applicants respectfully point out that copending U.S. Patent Application No. 10/523,929 was filed on October 3, 2005 and this application was filed on February 7, 2005. In this regard, the present patent application, if issued, would expire earlier than the cited application, which means that there is no term to be disclaimed in this application. Therefore, double patenting issues, if any, should be addressed in U.S. Patent Application No. 10/523,929.

Rejections under 35 U.S.C. § 102

Claims 1-15 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Feucht et al. (WO 2004/020659, hereinafter “Feucht”). Applicants respectfully traverse this rejection for the reasons detailed below.

Claims 10-11 and 14-15 have been cancelled, and therefore, the rejection of these claims is now moot.

The Applicants note that Feucht purports to have a publication date of March 11, 2004, which is the first time that Feucht was published in English. The Applicants further note that the

present application was filed in the USPTO on February 7, 2005, and entered the national stage under 35 U.S.C. § 371 as PCT International Application No. PCT/DE2003/002482 which has an International filing date of July 23, 2003, designating the United States of America.

Accordingly, due to the filing date of the present application, Feucht fails to qualify as “prior art” under any section of 35 U.S.C. § 102 including § 102(e). The publication date of Feucht (March 11, 2004) is after that of the present application’s effective U.S. filing date (July 23, 2003). Even if the Examiner were correct (which Applicants do not admit) and the publication were entitled to a § 102(e) date of July 23, 2003, the date is the same as the effective US filing date of the present application, and therefore, does not qualify as prior art under any section of § 102.

The Applicants, therefore, respectfully request that the rejection to Claims 1-15 under 35 U.S.C. § 102(e) be withdrawn.

CONCLUSION

In view of the above remarks and amendments, the Applicants respectfully submit that each of the pending objections and rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.


Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) hereby petition(s) for a one (1) month extension of time for filing a reply to the outstanding Office Action and submit the required \$120.00 extension fee herewith.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Erin G. Hoffman, Reg. No. 57,752, at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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